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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

TAPOCAL, WILLIAM E

ART UNIT

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3744

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1. Applicant's arguments filed June 23, 2009 have been fully considered but they are not persuasive. Applicant's remarks regarding the claimed location of the combined passage member being disposed in the cold storage of the liquid mix bag have been carefully considered but are not persuasive. Applicant disputes the Examiner's position that the location of the combined passage member is a matter of obvious design choice to one of ordinary skill in the art. The only mention of any criticality or unexpected results appears to be on page 11 of the response filed on June 23, 2009. There it is stated that "...the temperature of the mixture does not rise in the process of flowing through the mixed raw material tube 34". In other words, the placement of the combined passage member keeps the mixed raw material flowing through the tube cold. This, contrary to Applicant's remarks, is what one of ordinary skill in the art would expect to achieve from locating the mixed raw material tube inside the cold storage instead of outside. Applicant has not demonstrated why this is significant in the overall operation of the frozen dessert maker, over the device of Meserole et al. Thus, the mere location of the mixed raw material tube inside the cold storage, instead of being outside as disclosed in Meserole et al, still appears to be a matter of obvious design choice to one of ordinary skill in the frozen dessert art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (571) 272-4814. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William E. Tapolcai/
Primary Examiner, Art Unit 3744

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July 1, 2009